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dorsement is an indorser, and cannot be held in any other capacity. As such he is entitled, in order to render him liable, to notice of demand upon those who are primarily liable. *Rockfield et al.* v. *First National Bank of Springfield* (1907), — Ohio St. —, 83 N. E. Rep. 392.

The rule as recognized in Ohio prior to the passage of the Negotiable Intruments Act was that a person indorsing under such circumstances assumed the position of a surety, unless a different understanding between the parties was shown. *Ewan* v. *Brooks-Waterfield Co.,* 55 Ohio St. 596, 45 N. E. Rep. 1094, 35 L. R. A. 786, 60 Am. St. Rep. 719. For an extended discussion of this subject see 5 MICH. LAW REV. 189.

CARRIERS—WRONGFUL TREATMENT OF PASSENGERS—DAMAGES FOR MENTAL SUFFERING.—Plaintiff with her mother had charge of a helpless invalid sister while traveling on defendant's railway. Because of the failure of the conductor to keep his promise to assist them in leaving the car, they remained after the other passengers had left and were taken in the car to defendant's yards, where they suffered some inconvenience and delay in getting a carriage, were late in reaching a hotel and plaintiff suffered from the cold. *Held,* plaintiff is entitled to recover for her physical and mental suffering and for her mental suffering on account of the wrongful treatment of her sister, *Gulf, C. & S. F. Ry. Co.* v. *Overton* (1908), — Tex. Civ. App. —, 107 S. W. Rep. 71.

The mother had recovered damages under similar allegations in *G. C. & S. F. Ry. Co.* v. *Coopwood,* 96 S. W. 102, and the court holds itself concluded by that case, though FISHER, C.J., states that otherwise he would be inclined to the opinion that there could be no recovery for mental suffering based upon the facts submitted by the charge of the court. The rule as followed by the courts of Texas is that mental anguish is an element of damage when occasioned by breach of contract where the carrier had knowledge of the facts from which mental anguish would naturally follow, that mental anguish in case of *tort* is not an element of damage unless accompanied by some bodily injury, HUTCHINSON ON CARRIERS, 3d Ed., § 1427 n; *Ry. Co.* v. *Sammon,* — Tex. Civ. App. —, 79 S. W. 854; *Ry. Co.* v. *Anchonda,* Tex. Civ. App. 68 S. W. 743. Plaintiff in the principal case apparently brings her action in tort basing it upon the negligence of defendant's servants, but alleges no bodily injury at all and no physical suffering until she had left the car and yards of defendant. To support recovery, it is held the jury "could assume the existence of physical suffering from the facts testified to." Probably a majority of cases hold that if the circumstances show that through the carrier's neglect, the passenger has been subjected to abuse, insult or malicious treatment, any *consequent* mental pain or suffering, endured, is a proper element to consider in estimating compensatory damages. *Curtis* v. *The Railway Co.,* 87 Iowa 622, 54 N. W. 339; *Railway Co.* v. *Biddle,* 17 Ky. Law Rep. 1363, 34 S. W. 904, *Railway Co.* v. *Kaiser,* 82 Tex. 144, 18 S. W. 305. But where no insult, abuse or malice is alleged and physical injury, if any, must be assumed by the jury, it is apparently a departure in the law of tort, to allow recovery for mental suffering in an action against a carrier of passengers.